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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,264	12/28/2001	Kimitaka Murashita	826.1779	2737

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EXAMINER

ROGERS, SCOTT A

ART UNIT

PAPER NUMBER

2626

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/028,264

Applicant(s)

MURASHITA, KIMITAKA

Examiner

Scott A Rogers

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 8-27 and 31-35 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 and 29 is/are allowed.
- 6) ☒ Claim(s) 1-3, 28 and 30 is/are rejected.
- 7) ☒ Claim(s) 5-7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 2626

Election/Restrictions

Applicant's election without traverse of Group A (Claims 1-7 and 28-30) in the reply filed on 12 May 2004 is acknowledged. Claims 8-27 and 31-35 are withdrawn from further consideration pursuant to 37 CFR 1.142(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Sasanuma et al (US 5859933).

Referring to claim 1:

Sasanuma et al disclose a display measuring method for measuring a display characteristic of a display (e.g., printer 100 in Sasanuma et al), comprising:

displaying a specific color patch on the display (col. 7, lines 21-32);

counting a time that elapses after the color patch is displayed (col. 7, lines 33-36); and

Art Unit: 2626

measuring a color of the color patch displayed on the display (col. 7, lines 37-46), wherein the color patch is measured when the time that elapses after the color patch display reaches a specific pre determined time.

Referring to claim 28:

This claim is the device claim corresponding to method claim 1 and is rejected for the same reasons given above.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 3, and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2:

In the 4th limitation, it is unclear after the display of what the counting of time that elapses begins.

In the 5th limitation, it is unclear after what image is displayed a subsequent color patch is displayed when a specific time elapses.

In claim 3 and 30:

In the 5th limitation, it is unclear after what "specific image" is displayed a specific time elapses. It appears this should be after the "specific color patch" is displayed.

Allowable Subject Matter

Claims 2, 3, and 30 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim (claim 1)

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim (claim 1 or 4).

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim (claim 1) and intervening claims (claim 5).

Claims 6 and 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim (claim 2).

Claim 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim (claim 3).

Claims 4 and 29 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Art Unit: 2626

Referring to claims 2, 3, 29, and 30, the prior art searched and of record neither anticipates nor suggests in the claimed combinations, displaying and/or measuring a color patch after a specific time has elapsed after displaying an image before the color patch is displayed.

Referring to claims 4, the prior art searched and of record neither anticipates nor suggests in the claimed combinations, displaying a color patch after a prescribed time elapses after power of a display is switched on.

Referring to claims 5-7, the prior art searched and of record neither anticipates nor suggests in the claimed combinations, judging that a color patch measurement value has stabilized.

Other Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

For Kiyosu et al (US 2001/0052998 A1) see paragraph 0088, lines 14-21.

For Kanbe (JP 10-222242 A1) see English abstract.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott A Rogers whose telephone number is 703-305-4726. The examiner can normally be reached on Monday-Thursday 6:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly Williams can be reached on 305-4863.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at 703-306-0377. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

12 July 2004



SCOTT ROGERS
PRIMARY EXAMINER